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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

B5

[redacted]

DATE: OCT 26 2011

OFFICE: NEBRASKA SERVICE CENTER

[redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

[redacted]

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a director of quality. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a brief from counsel.

Section 203(b) of the Act states, in pertinent part:

> (2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. –
>
> > (A) In General. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.
> >
> > (B) Waiver of Job Offer –
> >
> > > (i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director did not dispute that the petitioner qualifies as a member of the professions holding an advanced degree. The sole issue in contention is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to regulations implementing the Immigration Act of 1990 (IMMACT), published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

> The Service [now U.S. Citizenship and Immigration Services (USCIS)] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

Matter of New York State Dept. of Transportation, 22 I&N Dec. 215 (Act. Assoc. Comm'r 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, the petitioner must show that the alien seeks employment in an area of substantial intrinsic merit. Next, the petitioner must show that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications.

While the national interest waiver hinges on prospective national benefit, the petitioner must establish that the alien's past record justifies projections of future benefit to the national interest. The petitioner's subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The intention behind the term "prospective" is to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative.

The AAO also notes that the regulation at 8 C.F.R. § 204.5(k)(2) defines "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered" in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The USCIS regulation at 8 C.F.R. § 204.5(k)(4)(ii) requires that a petitioner seeking to apply for the exemption must submit Form ETA-750B, Statement of Qualifications of Alien (or corresponding sections of ETA Form 9089), in duplicate. The record does not contain this required document, and therefore the petitioner has not properly applied for the national interest waiver. The director, however, did not raise this issue. The AAO will, therefore, review the matter on the merits rather than leave it at a finding that the petitioner did not properly apply for the waiver.

The petitioner filed the Form I-140 petition on June 29, 2010. In an introductory letter, counsel stated:

> [The petitioner] is in the field of quality and manufacturing management. Using his quality improvement system, he has helped [redacted] save $40 million dollars annually, helped [redacted] save $600,000 dollars in profit annually from $17 million dollars of sales and won the right to produce water pumps for the '[redacted] helped [redacted] finish delayed projects in merely 2 months (the project was fruitless for 12 months burning $500,000 in cash); helped [redacted] mobile business unit jump from 40th ranked in quality to the top 5 in 6 months; helped [redacted] implement ISO 9000 and ISO 14000 international certifications within 1 year when . . . 3 years was the norm; helped [redacted] company win 80% of the [redacted] more than 8 millions [*sic*] [redacted] cell phone mainboards per year . . . etc.

Counsel then turned to the three prongs of the national interest test published in *Matter of New York State Dept. of Transportation*. The substantial intrinsic merit of quality management in the manufacture of electronic components is not in dispute. The electronics industry is a major economic engine in the developed world.

Counsel stated:

> The benefit of [the petitioner's] employment is national in scope because the standards that he uses and contributes to are international in scope, and the business that he works in [is] at least national in scope, thus benefiting the entire U.S. . . .
>
> For his job of quality and manufacturing management, [the petitioner] audits factories and the entire system of the company to make sure that the manufacturing process is as efficient as possible.

With respect to the final prong of the national interest test, relating to the petitioner's record of achievement in his field, counsel stated that the petitioner "has a superior background that allows him to surpass a minimum [*sic*] qualified U.S. worker in producing discoveries and benefits." Counsel, in that section of the letter, did not identify any specific "discoveries and benefits," instead stating that the petitioner "is well educated and has the background necessary to lead and to produce discoveries."

Counsel quoted at length from several witness letters which, apart from documentation of the beneficiary's education and training, constitute the bulk of the evidence in the original submission. Deguo Liu, executive director of [redacted] stated:

> [redacted] [The petitioner's] responsibilities included directing the program managers, more than 500 employees, and more than 4,000 operators at the [redacted] [The petitioner] was also the key person responsible for supervising the quality teams in 11 subsidiary business units for desktop, laptop, server, cell phone and PDA manufacture. My overall impression of [the petitioner] is that he is a highly competent expert with superior visions in the area of quality management. I rely on his

expertise for nearly every aspect of quality management. For example, [the petitioner] helped to develop lean manufacturing process and carried out six sigma implementation, which dramatically improved [redacted] overall quality of manufacture and products. [The petitioner] also helped Lenovo achieve the ISO9001, ISO14001 and OSHA systems. In addition, [the petitioner] helped us set up the group's supply chain strategy. . . .

[W]ithin merely 6 month[s] of his arrival, [the petitioner] improved the quality of our products from second tier to the top five out of forty Chinese mobile phone manufactories. During this time, [redacted] market share also jumped from 1.5% to 7% which was very significant. . . . The main reason why we were able to gain rapid market share was that our quality was better than that of our competitors. And the reason why our quality improved so much was in large part due to [the petitioner's strategic planning and alignment of our product concepts. . . . There were other quality teams and quality experts within our company, however, none of them have achieved the level of accomplishment and the rapid pace of advancement that [the petitioner] has. Thus, I am confident to say that [the petitioner] is, by far, among the top few quality and production experts in China or even in the world.

. . . [The petitioner] is a crucial individual to any electronic company that is interested in working with the Chinese manufacturers. . . .

Within our industry [the petitioner] is quite famous. Whenever there is a conference and [the petitioner] gives a speech regarding quality management, manufacturers from all over the world in this industry would listen and pay attention.

[redacted]

[The petitioner] is a foremost expert on quality control with respect to electronic components, such as computers, cell phones, and other electronic products. The expertise of [the petitioner] starts in 1999 when he was a product quality engineer for [redacted]. . . [The petitioner] led a project that won the annual production contract to 8 million [redacted] mainboards in 2000. This contract accounted for 80% of Nokia's Asia production orders and led the strategic cooperation between [redacted] and so, [the petitioner's] reputation was pretty well-known at the time in our industry. Many managers from different companies tried to employ [the petitioner]. At local conferences and national industry conferences, many value [the petitioner's] opinion.

Another task that [the petitioner] has accomplished was that he took charge of the ISO 9002 and ISO 14001 systems for [redacted] and successfully certified them. . . . Without the certification that was accomplished by [the petitioner], neither [redacted] could successfully manufacture those electronic components. If [the petitioner] did not

accomplish the certifications or delayed the certifications, the loss of revenue would be in the millions.

Besides these quality assurance matters, [the petitioner] was also well-known in the industry for implementing lean manufacture and six sigma techniques to control and improve processes. . . .

I found that he was very good at creating a Quality strategy for [redacted] When [the petitioner] worked as the Director of business Support, he helped to improve the Mean Time Between Failure from 30,000 hours to 40,000 hours. . . . This work by [the petitioner] helped to reduce costs from Lenovo by about $40 million dollars annually. . . .

I consider [the petitioner] to be one of the most accomplished quality and manufacturing individuals in Asia, and other parts of the high-tech manufacturing world that I have worked at. . . .

Speaking from professional experience, I find that when working with U.S. based companies, they typically have insufficient knowledge on how to work with the rapid[ly] changing electronics industries in China. . . . However, whenever the U.S. company decides to work with an expert such as [the petitioner], I find that the U.S. company can better keep up with the pace in Asia. . . . This is where [the petitioner] has a significant advantage. [The petitioner] knows how to make improvements while keeping the cost down and continue to keep the speed of advancement high.

[redacted]

I have known [the petitioner] since 2004. I have had the honor of serving as the committee member chair [*sic*] in his thesis dissertation. . . . [The petitioner] was also my student in different graduate classes. . . .

After [the petitioner] successfully completed his degree, he went to work for [redacted] [The petitioner] was employed in the Quality and Manufacturing Division. The Quality of the casting and machining metal product manufacturing is the key to the success of the company. This is because after the design process is over, the manufacturing of the components must have high quality standard or else the components will fail unnecessarily. Based on my experience, I find that [the petitioner] has superior analytical and management skills that enable him to find new approaches to better resolve the obstacles.

[redacted]

My knowledge of [the petitioner's] work comes from 2006 to 2008, when [redacted] employed [the petitioner] as a Senior Product Manager, and thereafter as a personal

contact for quality and manufacturing issues. . . . I consider [the petitioner] to be one of the handful [of] people out there that can make significant improvements to the quality systems of a company. . . . [A]t [redacted] . . . , within a short time of eight months, [the petitioner] improved the on-time delivery from 50% to 85% for all customers and to 95% for the top customers' products. Secondly, [the] Customer rejection rate [has] dropped from 5% to 1% and saved the company more than $600,000 annually and customer satisfaction rate increased from [sic]. [The petitioner's] achievements are incredible for our company.

When [the petitioner] came to our company, he initiated a system that targeted 5 areas. He focused on Product Life Cycle Management, Quality Management, Manufacturing Management, Supply China Management, and Major Customer Service. When he started, there was a challenge that large customers have specific requirements and [redacted] did not have the management ability to in-take the requirements. And so the on-time delivery was a major problem. The rejection rate was 20%, and satisfaction was at 60%. To solve these problems, [the petitioner] chose to use the ASTM standard to assess finished product quality specifications. . . . These standards remained confusing to use, until [the petitioner] systematically sorted them out.

[The petitioner] used internal inspections to make sure that the products of [redacted] are high quality and integrated the entire production to ensure that defective products are not given to the customers. [The petitioner] developed a four step system for [redacted] The first step was to understand customer's requirements. . . . The second step was to keep cost low. . . . The third step was to observe the factories and find problems. [The petitioner] went to the foundries in China and found many problems and amazingly, he was knowledgeable enough to solve the problems. The fo[u]rth step was to train qualified personnel such as production process engineer, quality engineer. [The petitioner] did all of the above and the outcome was great.

. . . I tried to replace [the petitioner] after he has left our company. However, I have searched and have not found anyone even remotely capable of duplicating what [the petitioner] has done for us.

[redacted]

My knowledge of [the petitioner's] work arises from the fact that he audited this factory twice in 2008 and visited it five times in the past year for product quality and manufacturing improvement and management. When [the petitioner] was auditing the factory, he made numerous improvements and I greatly appreciate his hard work. . . . [The petitioner] is an incredibly useful individual in his field.

In this letter, I would first like to discuss [the petitioner's] work at Apricorn. [The petitioner] worked on quality management. . . . [The petitioner] would supervise

products from [redacted] From [redacted] [the petitioner] would receive optical drives and external hard drives, secure hard drives and eSATA hard drives. For these products, [the petitioner] would investigate the specifications requested by [redacted] and make the products to satisfy the requirement. . . . [The petitioner] would be responsible for building the prototype and the Engineering verification test (EVT), Design verification test (DVT), Product verification test (PVT). Next, [the petitioner] would do the Preproduction, and finally the Mass Production. After the products are created, [the petitioner] would do the reliability test to make sure that the products are as fail proof as possible.

. . . [The petitioner] can provide excellent quality assurance for the product. [The petitioner] has already helped us to meet the quality specifications, contact the suppliers and helped us identify the weakness where we can improve. These set of skills are very vast and he applies these to his daily duties at Apricorn. . . .

[The petitioner's] design review process is also very impressive. . . . [The petitioner can] conduct Manufacturing Ready Review (MRR) to drastically improve quality and process. This is where the clients review factory's product flow and conduct a qualification audit. Very few individuals that I know can conduct this type of review. I believe that [the petitioner] is the only person at [redacted] that can conduct this type of review. So far, I heard that [the petitioner] has found several major problems by using MRR. . . .

Regarding [the petitioner's] work at [redacted] he has made significant contributions for [redacted] as well. [The petitioner] has worked on the flex drive from [redacted] The requirements from [redacted] are quite rigorous. For example, [redacted] requires that there be a button that could be pushed and that it pops up. [redacted] requires it to function[] at least 3,000 times. Among other requirements, the tolerance was the most difficult to manage. . . . [The petitioner] made the design possible in only about 2 month[s] time. . . . Previously, there was . . . 1 year of design failure. . . . Over $500,000 was wasted in the design process. . . . [The petitioner's] method reduced the simplicity [*sic*] and was easier to manufacture.

[redacted]

[The petitioner] is well known for his work at [redacted], where he helped the company to improve so much that [redacted] won the bid to the heavy pump project for the famous [redacted] This was a big project and without our industry, it was known that [redacted] secret weapon was [the petitioner]. . . .

[The petitioner's] reputation in quality management is well-known after the [redacted] He has demonstrated that he is one of the best in the field. . . . When [the petitioner] was only 24 years old, he led a project team to win the annual contract

> of more than 8 million [redacted] This contract accounted for 80% of [redacted] overall production orders in China and was important to the strategic cooperation between [redacted] . . . When [the petitioner] was 33 years old, he worked as Director of Quality in [redacted]. in charge of all aspects of Quality Management, Manufacturing Management, and Supplier Management. Within six months, he improved the major [redacted] to successfully pass[] [redacted] Factory Qualification Audits.

In a request for evidence dated January 29, 2010, the director stated that the petitioner had not provided sufficient information about his intended employment. The director also requested evidence to show the national scope of the petitioner's occupation, and to demonstrate the petitioner's influence on his field.

In response, the petitioner stated that he is now "working as Director of Production at Appliance Scientific, Inc. (ASI) in Dallas, TX in charge of all the aspects of Manufacturing, Quality and Supply Chain Managements for Commercial Oven manufacture." The petitioner stated that ASI's Ovation Mini ovens are safe and energy efficient, but he did not claim to be responsible for designing or creating the oven's particular features. Instead, he stated that helped to set up the production and quality assurance systems to ensure that the ovens meet the company's specifications. The petitioner did not explain how it is in the national interest that he, rather than a different qualified worker, be in charge of quality control for these ovens, except to make the general argument that he is more highly skilled at his job, and therefore would deliver more savings and improvements than a less qualified worker would do in the same position. The petitioner did not explain how his work would have a significant impact outside of ASI and its clients.

The petitioner cited recent high unemployment figures, and asserted: "there are very few experts who know the specific methodologies and have hands-on skills to save and revitalize U.S. manufacturing industry. I am one of the experts who can make this happen."

Counsel argued that the petitioner's job is national in scope because improved manufacturing processes save energy and money; protect worker safety; and create jobs, while producing higher-quality products for consumers across the country. To distinguish the petitioner from others in his field, counsel disputed that "quality and manufacturing managements can be learned from [a] book." Counsel asserted that the petitioner's "field is a secretive field with little or no publication for the latest Asian production methods," and therefore the only way that United States companies can learn those methods is by employing workers with experience at Asian factories. Counsel stated that, by working "with top tier companies . . . in Asia," the petitioner has gained "real and proven experience that others do not have." This line of reasoning implies that any quality manager who has worked for a major manufacturer in Asia should receive the waiver, as being presumptively superior to a United States worker. Under *Matter of New York State Dept. of Transportation*, the alien's specific, individual qualifications are the key factor; there is no presumption of superiority (or inferiority) based on the country or countries where a given alien has worked. Furthermore, counsel did not explain how the petitioner's methods in a "secretive field," in which employers closely guard improvements in technique in order to preserve competitive advantage, would propagate beyond a single employer.

The petitioner did not submit any objective, documentary evidence to show that his work has been especially important or influential in the field. Instead, the petitioner submitted more witness letters, along with counsel's assertion that "USCIS should give high value" to those letters because "[t]here are not many objective authorities on manufacturing history in the United States."

[redacted]

> In most cases, quality control is an afterthought relating to sales and customer service. . . . However, [the petitioner] has changed this concept. Instead of merely quality control, [the petitioner] has intertwined this with cost cutting and profitability. In his past work, using his method and his guidance, the companies all seemed to be able to increase quality and reduce costs[,] gained market share and win more business opportunities from customers. This is highly significant because [the petitioner] has more influence on the company than almost any other department. And what is influential for the company is what is influential for the sector, and therefore the U.S.
>
> . . . [Most] . . . quality control experts will only know how to apply the quality standards and to check the specifications. . . . In [the petitioner's] case, what he can do is that he can tell when to abide by the standards, when to improve the manufacturing process, and when to use alternative methods. I do not believe that there is an exact methodology to [the petitioner's] work, but I know that if I let [the petitioner] do his work, he can bring back better quality products at a lower cost and in the shortest time. . . . [The petitioner's] work is of major business significance . . . because he has saved several companies by making failed products into successful ones.

[redacted] discussed several examples already discussed in previous witness letters, such as the assertion that the petitioner saved millions of dollars [redacted]

[redacted] did not explain how the petitioner's work has had, or could have, a wider impact on manufacturing in the United States. He acknowledged that some details from individual projects are confidential, and therefore unavailable for wider implementation. He also denied that the petitioner employs any "exact methodology" that others could learn and imitate. The implication seems to be that the petitioner could eventually have a major impact on United States manufacturing through serial employment for several different manufacturers. There is no evidence that the petitioner's current employment for ASI involves audits of other manufacturing facilities.

[redacted]

> [The petitioner] audited our factory in Dongguan city, Guangdong Province, China in April of 2008. . . . During the initial audit, our factory did not meet the requirements for quality system management and operations process management. However, we follow[ed] [the petitioner's] recommendations and then our factory passed the standard required by [redacted] within only two months. . . .

> [The petitioner] can improve quality while lowering cost in a way that no international standard or manual can do in real life. The reason for [the petitioner's] uniqueness in this area is that he balances quality and cost particularly well. This is not an ability that can be learned or gained from reading books or even garnered by applying rigorous quality standards. Instead this is a business sense that develops from practice, and particularly Asian manufacturing practice.

Once again, the above witness discusses how the petitioner has helped individual employers, but has not explained how the petitioner's work has had, or will have, national impact beyond the individual companies that employ him.

The director denied the petition on June 29, 2010. The director acknowledged the intrinsic merit of the petitioner's occupation, but found that the petitioner had not shown national scope. The director found that "the primary benefit of his employment is enjoyed by his employer." The director also found that the petitioner had not explained why a waiver of the labor certification requirement would be in the national interest. The director noted that exceptional ability, *i.e.*, a degree of expertise significantly above that ordinarily encountered, is not sufficient grounds for the waiver.

On appeal, counsel states: "petitioner has created job opportunities . . . for all individuals in the U.S. This is because the jobs that are created are open to all US workers, and workers from anywhere can apply for these jobs. . . . [A]lthough the job location may be local, the job opportunity is national in scope. This can be contrasted from a teacher or a chef because they cannot create opportunities on a national scope." By counsel's logic, a chef's work is national in scope because diners from anywhere can travel to the chef's restaurant. It is true that a job seeker can relocate in order to pursue employment, but the resulting employment is not national in scope. Once employed, the workers would presumably reside within commuting distance of the new employer. Even if a manufacturer staffed its entire facility through national rather than local recruitment, the economic and demographic effects from the potential relocation of one factory's worth of workers would not appear to be significant at a national level.

Counsel states that the "petitioner has hel[ped] multiple manufacturers create one manufacturing plant after another. USCIS should not focus on just one plant." Counsel does not provide a rough estimate of the total number of factories where the petitioner intends to work in the United States. Counsel had previously claimed that the petitioner had worked for six employers between 1999 and 2009. Assuming that the petitioner continues to change jobs at the same rate, he would work for perhaps 20 employers before reaching retirement age around 2040. The petitioner has not shown that this hypothetical suite of employers would represent a significant swath of the United States' manufacturing base. Also, the local work of an individual does not become national in scope simply by occurring in several different places over a number of years. Any one individual position would still be local, and the petitioner can only have an active role in one place at a time. If, for instance, the petitioner left a job in Texas for a new job in Indiana, his ongoing impact in Texas would cease once he began working in Indiana.

Counsel asserts that the petitioner would have an "indirect impact" because his employers are part of the national economy, and "create a supply chain that . . . benefits the entire field related to manufacturing plants." While the manufacturing network and its ancillary support businesses are, in the aggregate, national in scope, counsel has not explained how the petitioner's work at one such factory within the system is national in scope.

Counsel repeats the assertion that many manufacturers will keep their methods secret for business reasons, but contends that "this knowledge will surely spread out as employees change jobs and petitioner change[s] manufacturing plants." This speculative claim relies on the assumption that the employers desire secrecy, but will take no steps (such as non-disclosure agreements) to prevent departing employees from sharing those secrets with competitors.

The petitioner has not identified any factory that has adopted his methods even though he himself did not work there. Therefore, the assertion that the petitioner's techniques will gradually spread is nothing but unsupported conjecture. The unsupported assertions of counsel do not constitute evidence. *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

For the above reasons, the petitioner has not demonstrated that his intended work is national in scope. The AAO therefore affirms the director's finding to that effect.

In discussing the lack of evidence to support counsel's claims, a related issue surfaces. Witnesses have made very specific claims about the past results from the petitioner's work, involving particular products and specific cost figures. The record, however, contains no objective documentary evidence at all to support any of these claims, and no explanation for its absence. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Counsel again quotes at length from previously submitted witness letters. The opinions of experts in the field are not without weight and the AAO has considered them above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may, as the AAO has done above, evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795. USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

The letters considered above primarily contain unsupported assertions regarding the petitioner's past work. Witnesses assert that few others are capable of the petitioner's level of accomplishment, but provide no objective data to support these claims. Absent supporting evidence, the letters essentially

indicate that, for reasons difficult to explain and with no "exact methodology," the petitioner assists manufacturers in ways that are confidential and thus not subject to disclosure. These caveats leave little firm basis for the waiver.

With respect to labor certification, counsel asserts that a manufacturer's "director of quality needs to be the best," or else "it is a matter of time before the manufacturing is moved to Asia." Counsel offers several variations on the argument that Asian manufacturing techniques are superior to United States methods, and the petitioner has been a successful director of quality for Asian manufacturers, so therefore the petitioner's employment in the United States will prevent the otherwise inevitable migration of United States factories to Asia. The record does not identify any United States factory that the petitioner's efforts have already saved from closure or offshore relocation. Instead, counsel presents the conjectural claim that the petitioner's work will eventually produce such results.

There is no dispute that quality control and sound management practices can reduce costs while ensuring production of high-quality, competitive products. The petitioner, however, has not shown that his efforts in this area will appreciably affect more than one employer at a time, or that his efforts have had and will continue to have a greater impact than those of qualified United States workers in the same field. The broad-brush presumption that Asian techniques are superior to United States techniques, and that therefore United States manufacturing jobs are doomed unless United States manufacturers employ Asian quality control managers, is unsupported and does not create a blanket waiver for Asians in the petitioner's occupation.

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.